



December 1, 2004

TO: Monroe County Board of County Commissioners

FROM: K. Marlene Conaway, Director

RE: **Review of the Comprehensive Set of Amendments to implement Goal 105 – Tier System**

Introduction

Goal 105 provides a framework for future development and land acquisition for the next 20 years that considers the carrying capacity of the Florida Keys, reduces sprawl and promotes sustainability. Included in this loose leaf workbook are the proposed changes with explanatory footnotes to the Comprehensive Plan and Land Development Regulations (LDRs) to implement the goal, Rule 28-100 and the recommendations of the Florida Keys Carrying Capacity Study (FKCCS). The workbook is organized into eight sections:

1. Environmental Standards and Open Space Requirements Comprehensive Plan amendments
2. Environmental Standards and Open Space Requirements LDR amendments
3. ROGO/NROGO Comprehensive Plan amendments
4. ROGO LDR amendments
5. NROGO LDR amendments
6. Tier Overlay District LDR amendment
7. Tier Overlay District Map and Report
8. Optional Hybrid ROGO [Lottery] Comprehensive Plan amendments [Discussion purposes and not recommended by Planning Commission or staff.]

The staff recommends that three public hearings be held before the Board of County Commissioners on this comprehensive set of amendments, one in each area, before adoption of the DCA Transmittal Resolutions for the two Comprehensive Plan amendments. The LDRs implementing the Comprehensive Plan amendments and the Tier Overlay District Map will not be considered for adoption until the ordinances amending the Comprehensive Plan are adopted by the BOCC after their review by the DCA. Hopefully, this schedule will allow us to finish the adoption process by June 2005.

Background

The Board of County Commissioners (BOCC), at its regularly scheduled meeting on January 21, 2004, directed the Growth Management staff to prepare an ordinance deferring ROGO and NROGO allocation awards in areas containing tropical hardwood hammock or pinelands of two acres or greater within Tier I - Conservation and Natural Areas (CNA), *while staff prepares draft text and map amendments and other supporting studies* in order to effectuate the provisions of Goal 105 of the 2010 Comprehensive Plan, and Rule 28-20.100 FAC.

In preparing the draft amendments, the staff held three focus group meetings; two with the construction industry representatives and one with a group of interested individuals and environmental groups. Several planned meetings were canceled due to the hurricanes and finally two evening community workshops, one in Key Largo and one in Sugarloaf, were held in October.

The Planning Commission reviewed the staff draft of proposed amendments at a workshop in June and amended staff drafts in four public meetings held in September, October and November 2004. The Planning Commission approved the amendments with revisions and voted to recommend their approval to the BOCC on November 3, 2004.

Report Content

This staff report provides a summary discussion of the major changes to the Comprehensive Plan and Land Development Regulations proposed in this comprehensive set of amendments to be considered by the BOCC. At the end of each section, the staff has identified some remaining issues, that the Board may consider that were not addressed or recommended for approval by the Planning Commission.

Environmental Amendments

Overview

The current LDRs require properties designated on the 1986 Habitat Maps as hammock and pineland to perform a Habitat Evaluation Index (HEI) to determine the amount of clearing permitted and the negative points awarded in ROGO and NROGO. The HEI is a subject of continuous controversy, is accused of being subjective and since it is based on 1986 maps does not take into consideration re-vegetation over the last twenty years.

The proposed amendments remove the requirements for performing an HEI. Instead habitat quality and permitted clearing is based on the Tiers. Tier I receives “0” points for ROGO and clearing is limited to 10%. Clearing of habitat in Tier II is limited to 40% and Tier III is limited to 60%.

Regulatory requirements in the LDRS include an Existing Conditions Report, a Conservation Easement on upland native vegetation and use of the 1986 Habitat Maps as a baseline to assure unlawful clearing has not/does not occur.

Under the proposed amendments, Ocean Reef, which is not subject to ROGO and NROGO, is defined as Tier II for purposes of the clearing of upland native habitat, limiting clearing to only 40 percent.

In addition to changes to implement the Tier system, the Comprehensive Plan amendments also address the requirements for a Land Acquisition Master Plan, by changing the Natural Heritage and Park Program requirements in the current Plan (Objective 102.4); Objective 205.5 further defines the acquisition program; Objective 102.9 has been amended to provide guidance for developing a management strategy for lands acquired; and Objective 205.1 amends the GIS mapping requirements to implement the procedures followed to develop the Tier maps and require maintenance of the GIS data.

Issues

None

ROGO Amendments

Overview

ROGO has been completely redrafted utilizing the Tier System as the basis. A comparison between the proposed ROGO and the existing ROGO scoring systems is provided in Attachment A.

Where the current ROGO has eighteen categories of criteria for assigning points, the proposed ROGO contains only six categories of criteria. The habitat protection and reduction of sprawl, which are the planning reasons for most of the points, were considered during drafting and are the basis of the Tier maps. The sustainability points, water and energy conservation have been dropped altogether from the proposed system for various reasons such as, but not limited to, changes in the building code, diminishing value of these points in the overall scoring system, simplification of system, and inability to properly ensure compliance of building permit applications receiving the points after receiving a certificate of occupancy.

The proposed ROGO is a positive system, awarding major points for the Tier location of a property: Tier III - +30 points; Tier II - +20 points; Tier I - 0 points. The point system is different on BPK and NNK because the Habitat Conservation Plan for the islands controls the permitting. Points may be accrued by donating lots to the county for preservation in Tier I and Tier II. Additional points can be gained in Tier II and Tier III

by aggregating lots.

A change to the points for the donation of platted lots awards a point for each 5,000 square feet of a Suburban Residential (SR) platted lot and 1/2 point for a 5,000 square foot Native (NA) or Suburban Residential (SR) lot. An Improved Subdivision (IS), Urban Residential Mobile Home (URM) and Commercial Fishing (CFV) platted lot is buildable and receives four points. The single point value for unbuildable platted SR lots and a 1/2 point for NA and SS platted lots reflects the comparative buildability of these lots. Awarding points for unbuildable platted lots to encourage donation is in response to BOCC direction.

Major changes are proposed for affordable housing to assure they remain affordable for the workforce, long term. Allocations for affordable/employee housing will only be made for projects in Tier II and Tier III. Any projects receiving public financial assistance will be required to keep the projects affordable for 99 years. Affordable ROGO allocations will be provided on a first come, first served basis with the ability for public or private agencies to reserve allocations with BOCC approval contingent upon keeping the projects affordable for 99 years. To encourage mixed income projects, the 20% market rate housing permitted in employee housing projects will qualify for +3 points in ROGO.

Issues

1. Points Awarded and Administrative Relief: The Planning Commission (PC) has recommended increasing the time limit to apply for Administrative Relief after four years from 120 days to 180 days. It has also recommended deleting the Perseverance Points for applications in the system for more than four years. Applicants currently receive one point for each year in the system for the first four years and two points for every year over four years. The logic behind the change is that after four years an applicant, depending on the Tier and environmental quality of the lot should either be awarded a permit or receive an offer to purchase the lot. By providing two points a year after four years allocations may be awarded in inappropriate areas.

Staff recommends that if the BOCC agrees and deletes the provision for points to be awarded after four years that the total number of allocations awarded in any one quarter due to the granting of an Administrative Relief be limited to no more than fifty percent of the total available allocations in that quarter. This limitation is to maintain the competitiveness of the allocation system and to protect its legal basis should a significant number of administrative allocations receive Administrative Relief thereby vastly reducing the number of allocations available to applicants. The Board may also want to consider requiring that the "preferred relief" option for any lot scoring less than +30 points will be an offer to purchase.

2. Payment into a Land Acquisition Fund for Points: A purchase of points option was considered and not recommended by the PC. Up to three points could be purchased for a fee approximately equal to the cost per point of purchasing and dedicating a ROGO lot. The PC is concerned that by changing the system there would be less conservation

lots purchased. Staff still considers this a viable option and recommends that the BOCC may want to support it by adopting the following addition to Policy 101.5.4:

10. Payment to the Land Acquisition Fund – Up to three (3) points shall be awarded for a monetary payment by the applicant to the County's land acquisition fund for the purchase of lands for conservation and affordable housing and retirement of development rights. The monetary value of each point shall be set annually by the County based on upon the average as valorem valuation of all vacant privately owned IS/URM zoned platted lots on the current Monroe County Real Property Tax Roll.

The following change would also need to be made to the LDRs to implement the above proposed Policy amendment:

(j) Payment to land acquisition fund: Up to three (3) points shall be awarded for a monetary payment to the County's Land Acquisition Fund for the purchase by the County of lands for conservation and affordable housing and retirement of development rights. Points for payment to this fund shall be assigned as follows:¹

<u>Point Assignment:</u>	<u>Criteria:</u>
+ 1 to +3	<u>Proposes payment to the County's Land Acquisition Fund in an amount equal to the monetary value of a ROGO dedication point times the number of points to be purchased up to a maximum of three (3) points.</u>
	<u>Additional Requirements:</u>
	<u>1. The monetary value of each point shall be established annually by resolution of the board of county commissioners.</u> <u>2. The monetary value of each point shall be based upon the average ad valorem value of privately-owned, vacant, IS/URM platted lots divided by four (4).</u> <u>3. Payment to the County's Land Acquisition Fund shall be made prior to the issuance of any building permit pursuant to an allocation award.</u>

3. Hybrid ROGO System: An alternative ROGO system, which proposes that the market rate housing share be allocated through both a competitive system and a lottery system, was reviewed and not recommended by the Planning Commission. The predominate majority of public testimony received at the PC public hearings was not supportive of the proposal. Although the staff is making no recommendation on the proposal, it has been included it at the very end of the BOCC workbook to provide an

¹ This new provision allows payment to a County Land Acquisition Fund in lieu of lot dedication; however, the number of points that can be purchased are limited to only three.

opportunity for the Board's consideration should it so desire.

Under this proposal, approximately 20% of the market rate housing would be available through the lottery and the remainder available for those applicants who wish to have the assurance gained from the competitive system. The applicant determines if he wants to compete or enter the lottery. A threshold of 30 points is required to be eligible to enter the lottery. This dual system would provide a means for those who cannot afford to purchase lots to donate for points to have a chance of receiving an allocation. After four years applicants that have not received an allocation can apply for Administrative Relief.

NROGO Amendments

Overview

NROGO has also been completely redrafted utilizing the Tier System as the basis of the point awards and includes amendments to implement the Big Pine Key and No Name Key Master Plan. The proposed NROGO is a positive system, awarding major points for the Tier location of a property. Additional points may be accrued by dedicating lots, reducing intensity and through landscaping and water conservation. Up to four points may be assigned to an NROGO application when employee housing is proposed to be located on the parcel with the non-residential floor area. Attachment B provides a comparison summary of the major point differences under the existing versus proposed NROGO system.

Issues

None.

Tier Overlay District and Tier Overlay District Map

Overview

The Tier Overlay District provides the authority to designate geographical areas outside of Mainland Monroe County into one of three Tiers to assign ROGO and NROGO points and to determine the amount of clearing and prioritize lands for public acquisition. Criteria for designating the Tier boundaries are included.

The Tier maps, referred to collectively as the "Tier Overlay District Map" in the proposed ordinance, will become a zoning overlay when adopted. Changes to the maps will follow the procedures in Sec. 9.5-511 of the LDRs.

The proposed maps, provided in the report entitled "Implementing Goal 105 and the Recommendations of the Florida Keys Carrying Capacity Study" were drafted following the criteria in the overlay district; changes have been made after additional review by staff at the request of property owners. Changes may also be requested to Tier I by any

other individual who submits an application containing *substantial and competent documentation* that the area meets the criteria for Tier I. The review process for this type of application includes a review of the documentation by a Special Master who will provide a recommendation to the Planning Commission and the Board of County Commissioners.

The Tier maps were reviewed by Ricardo Calvo, our consultant, who also was the project manager of the FKCCS. The overlay Tier maps are the basis of an elegant system for protecting the valuable habitat of the Keys and preventing sprawl.

Issues

Adoption of Tier Overlay District Map: Tier I, the Conservation and Natural Areas, contain staff recommended changes from the maps adopted by the BOCC in June 2004, these changes will be brought to the BOCC officially after review by the Special Master, as required in the Interim Development Ordinance. Adoption of the final Tier maps that collectively make up the Tier Overlay District Map should not occur until that procedure is complete.

Attachments

Attachment A

Comparison of Current &
Proposed ROGO Point System

Existing	Action	Tier System
1) Platted Subdivision Infill	Delete	Included in Tier III
2) Infrastructure Availability	Delete	Included in Tier III
3) Lot Aggregation	Keep	+ 4 points in Tier II and Tier III
4) Acreage Tract Density Reduction	Delete	Acreage tracts in Tier I should not receive additional points
5) Land dedication	Keep	+4 Points legally platted buildable lot in Tier I and II, 5000 sf Tier I lot res. low - +1 point max net and + 1/2 point no max net. +4 points acre of buildable land.
6) Affordable Housing	Delete	Affordable housing has a separate allocation.
7) Habitat Protection	Delete	Included in Tier I - High/moderate quality hammock, Tier II - Low quality hammock
8) Threatened and Endangered Species	Delete	Included in Tier I
° Turtle nesting area	protected	° Sec. 9.5-349(p) - Turtle nesting area
9) Critical Habitat Areas	Deleted	Included in Tier I
10) Perseverance Points	Keep Delete	+1 for first 4 years After 4 years - Administrative Relief
11) Coastal High Hazard Area	Change	-4 Points "V" zone on FEMA maps in all Tiers
12) Coastal Barrier Resources System	Delete	Included in Primarily Tier I
13) Off shore Islands and Conservation Land Protection Areas	Delete	Included in Tier I by definition
14) Transferable development rights (TDR)	Delete	TDR's need rewriting - receiving areas mainly in Tier I and Tier II
15) Historic Resources	Delete	Sec. 9.5-451-460 only refers to designated. PC - Add to development review check list.
16) Water Conservation	Delete	Required in Building Code
17) Energy Conservation	Delete	Purpose of competition to direct development to appropriate areas
18) Structural integrity of construction	Delete	Purpose of competition to direct development to appropriate areas
	Add	Market rate employee housing + 3 Points - encourage mixed income
	Add	Central Sewer +4 Points - priority for units with central sewer

Attachment B

Comparison of Current &
Proposed NROGO Point System

Existing	Action	Tier System
1) Infill	Delete	Included in Tier III
2) Intensity Reduction	Keep	+4 points in all Tiers
3) Land dedication	Keep	+4 Points legally platted buildable lot in Tier I and II, 5000 sf Tier I lot res. low - +1 point max net and + 1/2 point no max net. +3 points acre of buildable land.
4) Habitat Protection	Delete	Included in Tier I - High/moderate quality hammock, Tier II - Low quality hammock
5) Threatened and Endangered Species ° Turtle nesting area	Delete protected	Included in Tier I ° Sec. 9.5-349(p) - Turtle nesting area
6) Critical Habitat Areas	Delete	Included in Tier I
7) Perseverance Points	Keep	Points awarded yearly
8) Coastal High Hazard Area	Change	-4 points "V" zone on FEMA maps in all Tiers "Special Flood Hazard Area".
9) Coastal Barrier Resources System	Delete	Included in Primarily Tier I
10 Conservation Land Protection Areas	Delete	Included in Tier I by definition
11) Historic Resources	Delete	Sec. 9.5-451-460 only refers to designated. PC - Add to development review check list.
12) Highway Access	Keep	All Tiers
13) Landscaping and Water Conservation	Keep	All Tiers
	Add	Employee Housing + 2 Points per housing unit up to 2 units
	Add	Central Sewer +4 Points - priority for sewerred areas